

ment; of making laws and enforcing obedience to them, which in all societies, must be vested somewhere; under our form of government is vested in the Government of the United States and the States. The doctrine that sovereignty cannot be *apportioned*, no longer exists here or is applicable to our form of government. The whole sovereignty is made up of the sovereignty conferred upon the United States, plus the sovereignty retained by the several States, or the people of the States.

I announce that proposition as the incontrovertible theory of our Government. And as further confirming this doctrine, I would refer to the Federalist, No. 32, page 140: "An entire consolidation of the States into one complete national sovereignty, would imply an entire subordination of the parts, and whatever powers remain in them would be altogether dependent on the general will. But as the plan of the Convention aims at only a partial union or consolidation, the State Governments would clearly retain all the rights of sovereignty which they before had, and which were not by that act, exclusively, delegated to the United States."

I refer again, upon the same point, to page 142. "The necessity of a concurrent jurisdiction in certain cases, results from a division of the sovereign power; and the rule that all authorities of which the States are not explicitly divested in favor of the Union, remain with them in full vigor, is not only a theoretical consequence of that division, but is clearly admitted by the whole tenor of the instrument which contains the articles of the prepared Constitution." Federalist, No. 32.

And then I turn to page 178, in further confirmation of the doctrine. "In this relation, then, the proposed government cannot be deemed a national one; while its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other subjects." Federalist, No. 39.

The same result will be reached by a different process of reasoning. These States were formerly colonies, and were settled under different grants from the sovereigns of Great Britain. Each was a separate and distinct community, with different laws, and clothed with different colonial powers, and having different governors and assemblages exercising legislative power. Under the colonial system, the allegiance of the inhabitants of the colony was due *solely and exclusively* to the sovereign of Great Britain. This allegiance in that form was one and undivided and *paramount*. When our ancestors, moved by the series of wrongs inflicted by the mother country, determined to seek redress for the injuries too long borne, several of the colonies, prior to the Declaration of Independence, framed a Constitution and declared themselves independent States, thus

assuming the right of self-government, and vesting themselves with sovereignty—and on the 28th day of June, 1776, prior to the Declaration of Independence, South Carolina fought the battle of Fort Moultrie, her men marching to the conflict flying State colors and led by officers who were commissioned by John Rutledge, President of the Republic of South Carolina. And South Carolina, Virginia and New Hampshire adopted severally a Declaration of Independence, prior to July 4th, 1776. By resolution, however, of July 2, 1776, they with the other colonies sundered all ties with Great Britain, in these words:

"Resolved, That these United Colonies are and of right ought to be free and independent States, that they are absolved from all allegiance to the British crown, and that all political connection between them and the State of Great Britain is and ought to be totally dissolved." Then came the Declaration of Independence in which they declare—

"We, therefore, the representatives of the United States of America, in general Congress assembled, appealing to the Supreme Judge of the world, for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be, free and independent States."

Not a free and independent government, not a free and independent community, all the States fused into one, but—

"Free and independent States: That they are absolved from all allegiance to the British crown, and that all political connection between them and the State of Great Britain is, and ought to be totally dissolved; and that as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do, and for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor."

Through seven long years of toil, suffering and alternate defeat and success, those revolutionary men fought until their solemn pledge to Almighty God was fulfilled, and their independence was acknowledged by treaty stipulations with Great Britain, France and other powers. They became then each separate and distinct sovereign States. The allegiance formerly due by the people of the separate colonies to the English sovereign was transferred, on the happening of the revolution to the government of the several States. *McIlvaine vs. Cox*, 4 Cranch, 209. This allegiance was a *unit, undivided*, and the several States claimed it, and claimed it properly, as *paramount*.

The States next united under articles of confederation, under which the whole system